

BILL ANALYSIS

C.S.H.B. 1950
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recently, cities across the United States, including in Texas, have taken action to cut police department budgets significantly. Interested parties have noted these actions leave the citizens of Texas and visitors to the state more vulnerable to crime and have, in fact, coincided with an increase in total homicides in certain municipalities. There have been calls for the state to step in and ensure that the well-being and safety of Texans remain protected from the potential effects of cutting public safety spending. C.S.H.B. 1950 seeks to answer those calls by allowing the criminal justice division of the governor's office to identify certain municipalities that reduce appropriations to their police department year-over-year as a defunding municipality and providing for the establishment of a law enforcement and public safety zone in certain defunding municipalities to direct law enforcement and public safety services within its defined boundaries.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the criminal justice division of the governor's office in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1950 amends the Local Government Code to enact the Texas Public Safety Protection Act.

Defunding Municipality Determination

C.S.H.B. 1950 classifies a municipality with a population of more than 250,000 that adopts a budget for a fiscal year that, in comparison to the preceding fiscal year, reduces the appropriation to the municipality's police department as a defunding municipality if the criminal justice division of the governor's office issues a written determination finding that the municipality has made the reduction. The bill requires the division, in making a determination of whether a municipality is a defunding municipality according to the budget adopted for the first fiscal year beginning on or after September 1, 2021, to compare the appropriation to the municipality's police department in that budget to the appropriation in the budget of the preceding fiscal year or the second preceding fiscal year, whichever is greater.

C.S.H.B. 1950 establishes that a municipality is not considered to be a defunding municipality if, for a fiscal year in which the municipality adopts a budget that is less than the budget for the preceding fiscal year, the percentage reduction to the appropriation to the municipality's police

department does not exceed the percentage reduction to the total budget. A municipality is also not considered to be a defunding municipality if, before the adoption of a budget, the municipality applies for and is granted approval from the division for a reduction to the appropriation to the municipality's police department to account for one of the following:

- capital expenditures related to law enforcement during the preceding fiscal year;
- the municipality's response to a state of disaster declared by the governor; or
- another reason approved by the division.

The bill requires the division to adopt rules establishing the criteria the division uses to approve reductions.

C.S.H.B. 1950 establishes that a municipality's defunding determination continues until the division issues a written determination finding that the municipality has reversed the reductions, adjusted for inflation. The bill requires the division to compute and publish in the Texas Register the inflation rate used to make that determination each state fiscal year using a price index that accurately reports changes in the purchasing power of the dollar for municipalities in Texas.

Law Enforcement and Public Safety Zones

C.S.H.B. 1950 authorizes the governor by declaration to designate a law enforcement and public safety zone in a municipality that is located wholly or partly in a county with a population between 1 million and 1.5 million and is a defunding municipality. The bill requires the declaration to do the following:

- prescribe the date on which the zone will begin operations;
- describe the zone's boundaries in one of three prescribed manners;
- appoint the zone's initial board of directors; and
- direct the comptroller of public accounts, beginning on the date that the zone begins operations, to set aside the municipality's share of the municipal sales and use tax revenue collected by the comptroller in a special fund for the purpose of funding zone operations.

C.S.H.B. 1950 establishes that the zone is governed by a board of at least three but no more than 11 directors who are appointed by the governor. With respect to the board, the bill does the following:

- sets out provisions relating to:
 - qualifications to serve as a director;
 - director terms and the manner in which a board vacancy is filled; and
 - the election of board officers and board meetings;
- exempts a director from liability for civil damages or criminal prosecution for any act performed in good faith in the execution of their duties or for any action taken by the board;
- entitles a director to reimbursement for expenses incurred but not to compensation;
- prohibits a position on the board from being construed to be a civil office of emolument for any purpose, including for purposes of constitutional prohibitions against holding multiple offices;
- requires a formal board action to be approved by an affirmative vote by a majority of the directors then appointed; and
- classifies the board as a governmental body for purposes of state open meetings law and state public information law.

C.S.H.B. 1950 requires the zone to direct all law enforcement activities and public safety services in the zone, including the following:

- enforcing all state criminal, traffic, and safety laws;
- preventing crime in the zone;
- investigating, detecting, and apprehending persons who violate laws in the zone; and
- protecting the welfare and safety of residents of and visitors to the zone.

The bill also grants the zone all powers necessary or convenient to accomplish its purposes, other than eminent domain power, and requires the zone to finance all the costs of its law enforcement activities and public safety services, including the costs for personnel, administration, and contracting. The bill grants the zone's board of directors access to the taxes that are set aside in order to pay for zone operations and authorizes the board to accept donations, gifts, and grants to carry out the zone's purposes.

C.S.H.B. 1950 grants the board exclusive management and control over any peace officer employed or contracted to provide law enforcement and public safety services in the zone while the peace officer is performing those services. The bill requires the board to ensure that each officer is a licensed peace officer and provides for the board's authority to establish payment rates for the officers.

C.S.H.B. 1950 authorizes the board, when acting on the zone's behalf, to contract with any entity to carry out the zone's purpose. The bill prohibits a municipality, county, or other political subdivision from doing the following:

- prohibiting a peace officer employed by the municipality, county, or subdivision from contracting with the board to provide law enforcement and public safety services in the zone; or
- retaliating or discriminating against such an officer who has contracted with the board to provide those services.

C.S.H.B. 1950 provides for the dissolution of a zone beginning on the date on which the criminal justice division issues a written determination finding that the municipality in which the zone is located has reversed its reductions in law enforcement funding, adjusted for inflation. The bill establishes the purpose of its provisions and provides for their construction and their control over certain other laws to the extent of a conflict.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1950 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the original classified any county or municipality that makes certain budgetary reductions as a defunding local government, the substitute narrows the scope of these provisions to apply only to municipalities with a population of more than 250,000. The substitute further revises these provisions, as follows:

- the substitute does not include the original's year-over-year reductions in the following as grounds for being classified as a defunding municipality:
 - the number of peace officers authorized to be employed;
 - funding for peace officer overtime compensation; and
 - funding for the recruitment and training of new peace officers to fill each vacant peace officer position;
- the substitute includes specific exceptions not in the original to a municipality being considered as a defunding municipality despite reducing appropriations to the municipality's police department if the percentage reduction does not exceed the percentage reduction to the total budget or the municipality is granted approval for the reduction from the division; and
- the substitute includes a requirement that is not in the original for the division to adopt rules related to approving an exception.